

STATE OF MICHIGAN
COURT OF APPEALS

MARTHA GAJEWSKI,

Plaintiff-Counter-Defendant-
Appellant,

v

DONNA MARIE ARNEST,

Defendant-Counter-Plaintiff-
Appellee.

UNPUBLISHED

January 26, 2001

No. 219959

Wayne Circuit Court

LC No. 97-711382-CH

Before: Collins, P.J., and Doctoroff and White, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendant's motion for summary disposition in this boundary dispute. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant purchased property at 14029 Helen Street in Southgate in 1971. A chain link fence separated the property from the adjoining lot. Plaintiff purchased the adjoining property in 1992. She obtained a survey of the property in 1996, which showed that the fence intruded on her property. Plaintiff brought this action to determine the interests in the disputed land. The trial court granted defendant summary disposition, finding that she established adverse possession.

Adverse possession requires a showing of clear and cogent proof that possession has been actual, visible, open, notorious, exclusive, continuous, and uninterrupted for the applicable statutory period. *Gorte v Dep't of Transportation*, 202 Mich App 161, 170; 507 NW2d 797 (1993). The possession must also be hostile to the title of the true owner. Where a landowner possesses the land of an adjacent owner with the intent to hold to the true line, the possession is not hostile and cannot establish adverse possession. *Id.* Where a person possesses the land of another intending to hold to a particular recognizable boundary regardless of the true boundary line, the possession is hostile and adverse possession may be established. *Id.*

Being mistaken as to the true boundary line does not defeat a claim of adverse possession. *DeGroot v Barber*, 198 Mich App 48, 53; 497 NW2d 530 (1993). Where a party appears to have

intended to hold to particular boundaries, but also believed the boundary represented the true line, she may establish an adverse possession claim. *Id.*; *Gorte, supra*.

The trial court properly granted summary disposition where the evidence showed that defendant intended to hold the property up to the fence. There was a showing of hostile intent to support a finding of adverse possession. *DeGroot, supra*.

Affirmed.

/s/ Jeffrey G. Collins
/s/ Martin M. Doctoroff
/s/ Helene N. White